

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

MELVILLE C. BROWN
and
JEAN BEVERIDGE BROWN

Claim No. CU-3660

Decision No. CU-511

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered on October 25, 1967;
no oral hearing requested.

Hearing on the record held on October 7, 1971.

FINAL DECISION

Under date of October 25, 1967, the Commission issued its Proposed Decision denying this claim because the evidence of record was insufficient to justify favorable action. Subsequently, additional supporting evidence was filed, including proof that the original claimant's wife, JEAN BEVERIDGE BROWN, owned interests in the property in question. Accordingly, she has been added as party claimant.

Upon consideration of the new evidence in light of the entire record, the Commission now makes the following findings:

1. On the basis of a report from abroad and receipts, the Commission finds that claimants, nationals of the United States since birth, jointly owned a residence and lot in Marianao, Havana, Cuba, which residence was constructed in 1958. The Commission further finds that the improved real property was taken by the Government of Cuba on December 6, 1961 pursuant to Law 989.

It further appears that claimants paid \$19,556.84 for the improved real property, and that it was encumbered by a mortgage in the original amount of \$13,000.00 which was being amortized at the monthly rate of \$29.95 commencing on September 1, 1958 until December 1960 when claimants left Cuba. Considering

that the property was located in a residential area of a suburb of Havana, and that the value of real property in Cuba had increased between 1958 and 1961, the Commission finds that claimants' valuation of their equity in the property is fair and reasonable. Accordingly, the Commission finds that claimants' equity in the property on December 6, 1961, the date of loss, was \$9,308.29.

2. The Commission finds that claimants jointly owned certain furniture and furnishings maintained at their residence, and two automobiles - a 1956 Ford and a 1958 De Soto - which were on the premises of the real property. The Commission further finds that said properties were taken by the Government of Cuba on December 6, 1961 when the real property was taken.

It appears that the many items of furniture and furnishings were acquired in 1958 at an aggregate cost of \$8,600.00. The Commission finds that on December 6, 1961 the aggregate value of the personal properties, after appropriate reductions for depreciation, was \$6,708.00.

Claimants have submitted no evidence to establish the values of the two automobiles on the date of loss. Information available to the Commission indicates that the average retail values of a 1956 Ford and a 1958 De Soto as of October 1961 were \$700.00 and \$1,100.00, respectively. In the absence of evidence to the contrary, the Commission finds that claimants' two automobiles had those values on December 6, 1961.

3. On the basis of claimants' statements and affidavits from their former Cuban attorney and from the former Secretary of the corporation, the Commission finds that claimants jointly owned a 100% stock interest in Comercial Importadora Melcibe, S.A. (Melcibe), a Cuban corporation. Apparently, claimants stock certificates are not available in the United States. The Commission further finds, in the absence of evidence to the contrary, that Melcibe was taken by the Government of Cuba on December 6, 1961 pursuant to Law 989.

It appears that Melcibe was engaged in selling and servicing dairy machinery in Cuba, and that it served as the exclusive representative of Cherry-Burrell Corporation, an American concern. The evidence includes copies of a balance sheet and supporting schedules for Melcibe as of December 31, 1959,

apparently the last available financial statement. That balance sheet shows assets aggregating \$42,953.06, and liabilities aggregating \$24,825.54, thus indicating an apparent net worth of \$18,127.52.

The supporting schedules show that claimants were indebted to Melcibe in the amount of \$668.48, which asset could not have been taken by Cuba. The balance sheet includes a debt due from Cherry-Burrell Corporation in the amount of \$2,921.88. However, correspondence from that corporation and a copy of an extract from its records disclose that Melcibe owed a debt of \$15,557.34 to that corporation. Therefore, the net amount due Cherry-Burrell Corporation was \$12,635.46.

Giving effect to the foregoing, the Commission finds that on December 6, 1961, the date of loss, Melcibe's assets and liabilities aggregated \$39,362.70 and \$21,903.66, respectively. Therefore, the value of claimants' stock interest in Melcibe on the date of loss was \$17,459.04.

Claimants' losses on December 6, 1961 are summarized as follows:

<u>Item of Property</u>	<u>Amount</u>
Improved real property	\$ 9,308.29
Furniture and furnishings	6,708.00
Two automobiles	1,800.00
Stock interest	<u>17,459.04</u>
Total	<u>\$35,275.33</u>

Therefore, MELVILLE C. BROWN and JEAN BEVERIDGE BROWN sustained losses in the amounts of \$17,637.67 and \$17,637.66, respectively.

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644); and in the instant claim it is so ordered.

Accordingly, the following Certifications of Loss will be entered, and in all other respects the Proposed Decision of October 25, 1967 is affirmed.

CERTIFICATIONS OF LOSS

The Commission certifies that MELVILLE C. BROWN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Seventeen Thousand Six Hundred Thirty-Seven Dollars and Sixty-Seven Cents (\$17,637.67) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement; and

The Commission certifies that JEAN BEVERIDGE BROWN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Seventeen Thousand Six Hundred Thirty-Seven Dollars and Sixty-Six Cents (\$17,637.66) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Final
Decision of the Commission

OCT 7 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

MELVILLE C. BROWN

Claim No. CU - 3660

Decision No. CU **511**

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$76,028.13 was presented by Melville C. Brown based upon the asserted loss of certain real property, personal property and stock interests in the Comercial Importadora Melcibe of Cuba. Claimant states that he has been a national of the United States since his birth in the State of Georgia.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503 (a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims of nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the

Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims that

(a) A claim shall not be considered under Section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof in all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant asserts the ownership and loss of improved real property, personal property, and stock interests in Comercial Importadora Melcibe, of Cuba. In support of the claim, he has submitted a "provisional receipt" and a "presupposed summary", both dated 1957, and a receipt for a mortgage payment, issued in 1958 by the "Industrial Bank". No further evidence has been presented.

By letter dated July 10, 1967, claimant was advised as to the type of evidence proper for submission in support of his claim. Specifically, the Commission suggested that he submit evidence of his United States nationality; of his ownership, the loss, and the value of the real property and personal property claimed; and of his ownership interest in Comercial Importadora Melcibe, together with proof of loss and value. Claimant has not responded to the Commission's letter and no evidence has been submitted.

On August 22, 1967, claimant was invited to submit any evidence he might have within 45 days from that date, and he was informed, that, absent such evidence it might become necessary to determine the claim on the basis of the present record. Claimant has not responded to the correspondence of the Commission and no further evidence has been submitted in support of this claim.

The Commission finds that claimant has not met the burden of proof, in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is hereby denied. The Commission deems it unnecessary to determine other elements of this claim.

Dated at Washington, D.C.,
and entered as the Proposed
Decision of the Commission.

OCT 25 1967

Edward S. Re

Edward S. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)